

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:12cr344
)	
Plaintiff,)	
)	
vs.)	MOTION FOR SEVERANCE OF
)	DEFENDANTS OR COUNTS OF THE
RANDALL DAVID DUE,)	INDICTMENT
)	
Defendant.)	

COMES NOW, counsel for the defendant, pursuant to FRCP 8 and 14 and moves this Court for an Order severing defendants in the above captioned case. Counsel states the following is support of this motion:

- (1) Mr. Due is charged with Mrs. Kozak in a 9 count superseding indictment.
- (2) Mr. Due is charged in counts 3 through 9 all of which allege a time period ranging from September 2012 through December of 2012, the same violations of 18 U.S.C. §1521 and the same participants.
- (2) Mr. Due is not charged in counts 1 and 2. Count 1 charges Mrs. Kozak with violations of 26 U.S.C. § 7212(a), attempts to interfere with administration of internal revenue laws, over a 15 year period beginning in 1997. Count 2 charges Mrs. Kozak with making a false claim to the IRS for a refund in 2008.
- (4) Counts 1 and 2 do not include Mr. Due and therefore he is not alleged in the superseding indictment to have participated in the same act or transaction, or in the same series of acts or transactions, constituting an offense or offenses required for proper joinder of defendants pursuant to FRCP (8)(b).
- (6) Failure to sever defendants, even if properly joined, will result in prejudice to Due.

WHEREFORE, for the aforementioned reason, counsel requests an Order severing defendants for purposes of trial as to counts 1 and 2 of the superseding indictment.

s/ Jerry M. Hug

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Brian Bailey and Matthew Hoffman, Assistant United States Attorneys

Further, counsel has mailed a copy of the foregoing via U.S. Mail, postage prepaid, to:

Donna Kozak
8725 Park View Blvd
La Vista, NE 68128

s/ Jerry M. Hug